

FEDERAL COMMUNICATIONS COMMISSION
Washington, D. C. 20554

MAY 23 2005

OFFICE OF
MANAGING DIRECTOR

Robert Grove, President
Grove Communications Inc.
115 Glenwood Road
Marquette, MI 49855-9502

Re: Grove Communications Inc.
FY 2004 Regulatory Fee
Fee Control No. 0409308340492001

Dear Mr. Grove:

This is in response to your request dated January 21, 2005, filed on behalf of Grove Communications Inc. (Grove) for a waiver of the Fiscal Year (FY) 2004 regulatory fee on the basis of financial hardship. Specifically, you request to supplement the record following the decision of the Commission's Office of Managing Director denying Grove's initial request for a waiver of the FY 2004 regulatory fee. See Letter from Mark A. Reger, Chief Financial Officer, Office of Managing Director, to Robert Grove (dated Jan. 4, 2005) (*Grove Letter*) (denying Grove's request for waiver of the FY 2004 regulatory fee, with leave to refile together with appropriate supporting documentation). Our records reflect that you have paid the \$473.90 regulatory fee and the associated \$118.47 penalty for late payment of the regulatory fee.

In the *Grove Letter*, we explained that, in establishing a regulatory fee program, the Commission recognized that in certain instances payment of a regulatory fee may impose an undue financial hardship upon a licensee. The Commission therefore decided to grant waivers or reductions of its regulatory fees in those instances where a "petitioner presents a compelling case of financial hardship." See *Implementation of Section 9 of the Communications Act*, 9 FCC Rcd 5333, 5346 (1994), *recon. granted*, 10 FCC Rcd 12759 (1995). In reviewing a showing of financial hardship, the Commission relies upon a licensee's cash flow, as opposed to the entity's profits, and considers whether the station lacks sufficient funds to pay the regulatory fee and maintain service to the public. Thus, even if a station loses money, any funds paid to principals, deductions for depreciation or similar items are considered funds available to pay the fees.

You now submit Grove's "U.S. Income Tax Return for an S Corporation," Form 1120S (*Income Tax Return*), for calendar years 2001 through 2004, Robert and Barbara Grove's "Miscellaneous Income," Form 1099-Misc. (*Form 1099*), for calendar years 2001 through 2004, and Grove's "Wage and Tax Statement," Form W-2 (*Form W-2*), for calendar years 2001 through 2004. You state that you are Grove's only corporate officer and that the only income you "receive from the cable systems is the lease fees Robert and Barbara Grove charge from the ownership of the real estate." You state that your brother, James Grove, is Grove's only full-time employee and that his salary is \$30,000.00, plus \$400.00 for insurance, as reflected on the submitted *Forms W-2*. You add that "[a]ny income over the base salary is work that is billed for the US Navy (ELF Project)."

Our review of your statements and submissions, including Grove's *Income Tax Returns* and *Forms 1099* for calendar years 2003 and 2004, indicates that the financial losses that Grove suffered in calendar years 2003 and 2004 were fully offset by depreciation deductions, which the Commission considers as funds available to pay the fees.¹ Therefore, because Grove did not establish that it lacked sufficient funds to pay the fees, we deny your request for a waiver of the regulatory fee for FY 2004.

If you have any questions concerning this matter, please contact the Revenue & Receivables Operations Group at (202) 418-1995.

Sincerely,



Mark A. Reger
Chief Financial Officer

¹ For calendar year 2003, the reported loss of \$5,174.00 was due to depreciation of \$16,556.00. For calendar year 2004, the reported loss of \$5,182.00 was attributable to \$18,817.00 of depreciation.

Grove Communications Inc.

115 Glenwood Road
Marquette, MI 49855-9502

January 21, 2005

0409308340492061

Mr. Mark A. Reger, Chief Financial Officer
Federal Communications Commission
445 12th Street, S.W., Room 1-A625
Washington, D.C. 20554

Re: Waiver/Reduction Request of Regulatory Fees

Dear Mr Reger

Your letter of January 4, 2005 stated I have not paid my regulatory fee for the last year. Enclosed is a copy of my filing form 159 and a copy of the cancelled check. Enclosed is a copy of a charge for late penalty of \$118.47 that was paid with your bill number 0420000509.

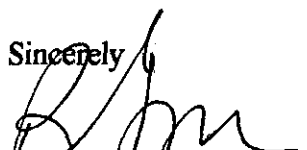
A Mr. Putnam of your office called to inform a letter was coming from your office. I discussed unfairness with the late penalty when I was not informed as to the date change. His office was not aware of the penalty and was not reviewed for billing. I request a refund of the \$118.47.

Your letter of January 4, 2005 stated that if I could prove hardship that the request for waiver would be reconsidered.

Enclosed is a copy of my Corporate Tax Returns for the last four years. I have had losses each year. The only income I receive from the cable systems is the lease fees Robert and Barbara Grove charge from the ownership of the real estate. Copies of the 1099's for the last four years are included for your review. As you can see the leases declined from \$23,200 to \$12,800 for lack of revenue. The only Corporate Officer is Robert Grove, President, and my brother James Grove is our only full time employee. Included is a copy of his W-2's for the last four years. James salary is \$30,000 plus \$400 for insurance. Any income received over the base salary is work that is billed for the U S Navy (ELF Project). This year we were notified the ELF is shut down and will end in 2005. James work requires him to maintain 50 plus miles of cable plant and four headends with 40 plus channels of equipment and service all 700 of our subscribers.

I request a waiver of the FCC regulatory fees and filing of the reports.

Sincerely,


Robert Grove, President
cc: Tom Putnam